

State of New Mexico
House of Representatives

FIFTY-SECOND LEGISLATURE
SECOND SPECIAL SESSION



October 3, 2016

HOUSE FLOOR AMENDMENT number 2 to SENATE BILL 6, as amended

Amendment sponsored by Representative Bill McCamley

1. Strike House Ways and Means Committee Amendments 3, 4, ~~8~~ ^{BM} 10, 12 and 13.

2. On page 1, line 22, before "CLARIFYING", insert "DELAYING REDUCTION OF THE CORPORATE INCOME TAX RATES; DELAYING SINGLE SALES APPORTIONMENT OF INCOME FOR MANUFACTURERS;".

3. On page 2, line 2, after the semicolon, strike the remainder of the line, strike line 3 in its entirety, strike line 4 up to the semicolon and insert in lieu thereof "MAKING APPROPRIATIONS".

4. On pages 2 through 19, strike Sections 1 and 2 in their entirety and insert in lieu thereof the following sections:

"SECTION 1. Section 7-1-6.43 NMSA 1978 (being Laws 2003, Chapter 86, Section 1) is amended to read:

"7-1-6.43. DISTRIBUTION TO LEGISLATIVE RETIREMENT FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the legislative retirement fund in an amount equal to [~~two hundred thousand dollars (\$200,000)~~] seventy-five thousand dollars (\$75,000) or, if larger, one-twelfth of the amount necessary to pay out the retirement benefits due under state legislator member coverage plan 2 and Paragraph (2) of Subsection C of Section [~~10-11-42~~] 10-11-41 NMSA 1978 for the calendar year.

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B. In December 2003 and in each December thereafter, the public employees retirement association, with the assistance of the legislative council service, shall determine the amount of those retirement benefits for the succeeding calendar year. If the monthly average exceeds [~~two hundred thousand dollars (\$200,000)~~] seventy-five thousand dollars (\$75,000), the association shall notify immediately the department of the average amount. That average amount shall be the amount distributed pursuant to Subsection A of this section as of the end of each month of the twelve consecutive months beginning with the December in which the determination was made."

SECTION 2. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following tables:

A. For taxable years beginning prior to January 1, 2014:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 7.6% of excess

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over \$1,000,000.

B. For taxable years beginning on or after January 1, 2014 and prior to January 1, 2015:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 7.3% of excess over \$1,000,000.

C. For taxable years beginning on or after January 1, 2015 and prior to January 1, ~~2016~~ 2018:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000

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Over \$1,000,000	\$56,000
	plus 6.9% of excess over \$1,000,000.

D. For taxable years beginning on or after January 1,
[2016] 2018 and prior to January 1, [2017] 2019:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of excess over \$500,000
Over \$1,000,000	\$56,000 plus 6.6% of excess over \$1,000,000.

E. For taxable years beginning on or after January 1,
[2017] 2019 and prior to January 1, [2018] 2020:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000	\$24,000 plus 6.2% of excess

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over \$500,000.

F. For taxable years beginning on or after January 1,
[2018] 2020:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000	\$24,000 plus
	5.9% of excess
	over \$500,000."

SECTION 3. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

B. A taxpayer whose principal business activity in New Mexico is manufacturing may elect to have business income apportioned to this state:

(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;

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(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, ~~[2016]~~ 2018, by multiplying the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;

(3) in the taxable year beginning on or after January 1, ~~[2016]~~ 2018 and prior to January 1, ~~[2017]~~ 2019, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten;

(4) in the taxable year beginning on or after January 1, ~~[2017]~~ 2019 and prior to January 1, ~~[2018]~~ 2020, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and

(5) in taxable years beginning on or after January 1, ~~[2018]~~ 2020, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

C. A taxpayer whose principal business activity in New Mexico is a headquarters operation may elect to have business income apportioned to this state by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the

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department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election will apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months. The election will apply to the separately filed return of the taxpayer or the combined or consolidated return the taxpayer has elected to be included pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

E. For purposes of this section:

(1) "headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which

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final authority over one or more centralized functions is issued;
and

(2) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or

(d) processing natural resources, including hydrocarbons."".

5. Renumber succeeding sections accordingly.

6. On page 54, between lines 14 and 15, insert the following sections:

"SECTION 9. TEMPORARY PROVISION--UNDERESTIMATING CORPORATE INCOME TAX--FORGIVING PENALTIES AND INTEREST.--A taxpayer that estimated corporate income tax to the state pursuant to Section 7-2A-9.1 NMSA 1978 for corporate income tax liabilities for taxable year 2016 but underpaid due to the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act; provided that the underestimation is solely attributable to the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978 pursuant to this act.

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SECTION 10. APPROPRIATIONS.--

A. One million five hundred thousand dollars (\$1,500,000) is appropriated from the general fund to the children, youth and families department for expenditure in fiscal year 2017 and subsequent fiscal years to support child abuse prevention. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

B. One million five hundred thousand dollars (\$1,500,000) is appropriated from the general fund to the department of public safety for expenditure in fiscal year 2017 and subsequent fiscal years for the scientific testing and analysis of backlogged sexual assault examination kits. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

C. Eight hundred thousand dollars (\$800,000) is appropriated from the general fund to the department of health for expenditure in fiscal year 2017 and subsequent fiscal years to support the victims of and reduction in sexual assault. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

D. Eleven million five hundred thousand dollars (\$11,500,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal year 2017 and subsequent fiscal years to recruit, train, hire and retain local law enforcement employed by municipalities and counties. The local government division shall distribute the appropriation based on the number of vacancies in each municipality and county. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund."

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7. On page 54, line 16, strike "9" and insert in lieu thereof "8".

8. On page 55, lines 1 and 2, strike "4, 7 and 8" and insert in lieu thereof "5 through 7".

9. On page 55, line 4, strike "4, 7 and 8" and insert in lieu thereof "5 through 7".

10. Renumber sections and adjust cross-references to correspond with any previously adopted amendments.

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____